

REMARKS/ARGUMENTS

In the Official Action, the Examiner sets forth a two-way restriction requirement. According to the Examiner, claims 1-30 are categorized as Invention I, which the Examiner directs to be a patentably distinct invention from claims 31-47, grouped as Invention II, both drawn to data protection.

The Applicant hereby provisionally elects Invention I for examination in this application with traverse. It is believed that claims 1-30 are readable thereon.

According to the Examiner, Inventions I and II are related as combination and subcombination. The MPEP specifies that where the claims of the combination and subcombination are presented, the omission of details of the claimed subcombination in the combination claim is evidence that the combination does not rely upon the specific limitations of the subcombination for its patentability, so that it is not necessary to have a second or third computer entity of the claimed subcombination of Invention II. Since the Examiner has not yet demonstrated that the combination of Invention I does not require the particular features of Invention II for patentability, the restriction requirement fails to meet the test set forth in MPEP 806.05(c). By making the restriction requirement, the Examiner asserts that claim 1 is already patentable over the prior art without *first* demonstrating to the Applicant that each element of the test set forth in MPEP 806.05(c) has been met!

The Examiner is setting a standard for patentability by making the restriction requirement. The Applicant will expect the Examiner to maintain a consistent point of view with respect to the sort of differences which rise to that standard of patentable distinction when considering new claims in this application on their merits. It is not believed that the Examiner can set one standard of patentability when making a restriction requirement and then set a different standard of patentability in citing prior art documents against claims.

An action on the merits of this application is awaited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

February 16, 2007
(Date of Deposit)

Mary Ngo
(Name of Person Depositing)


(Signature)

February 16, 2007
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